

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

)	CIVIL ACTION
JACQUES DESROSIERS and)	NO. 1:22-CV-11674-FDS
YOLETTE L. DESROSIERS,)	
)	
Plaintiff,)	
)	
v.)	
)	
SIG SAUER, INC.,)	
)	
Defendant.)	
)	

**DEFENDANT SIG SAUER, INC.’S RULE 702 MOTION TO EXCLUDE
EVIDENCE AND OPINIONS OF PLAINTIFFS’ EXPERT,
JAMES TERTIN**

Defendant Sig Sauer, Inc. (“Sig Sauer”), by and through its attorneys, hereby moves pursuant to Fed. R. Evid. 702 to preclude the evidence and opinions of plaintiff’s expert, James Tertin (“Tertin”). Defendant relies on the averments and arguments contained in the attached Memorandum of Law, Declaration of Brian Keith Gibson, and Exhibits A through JJ thereto, which Sig Sauer hereby incorporates by reference and adopts as though fully set forth herein at length.

This is a case in which the plaintiff police officer, in an admitted violation of police department policy, knowingly shoved an unholstered, loaded handgun with no external safety into his waistband, and now seeks to blame the manufacturer of the gun when it was his negligent handling of the gun led to an accidental discharge. The testimony of Plaintiffs' proffered firearms expert James Tertin must be precluded because both his design defect and causation opinions amount to nothing more than pure speculation, unsupported by any factual basis in the evidence. Specifically, Tertin should be precluded from rendering any opinions regarding the P320 because

(1) his “defect” opinion is not relevant to Plaintiff’s claim and lacks any reliable foundation; (2) his opinions do not fit, or have any relation to, the facts and circumstances of Plaintiff’s discharge; and (3) his causation opinion rests solely on his *ipse dixit*.

As set forth in the accompanying Memorandum of Law, Tertin opines without any scientific analysis, recognized methodology, or evidentiary support that the P320 is defectively designed because it is a single action pistol without an external safety, and from there, erroneously concludes that all unintentional discharges with a P320, including Plaintiff’s, are caused by the lack of a manual thumb safety or tabbed trigger. Tertin formed his opinion *before* he even reviewed any information regarding Plaintiff’s discharge and admits that an inspection of the physical evidence from Plaintiff’s incident would not have caused him to change that pre-formed opinion. This lack of scientific rigor demands preclusion. And Tertin’s design causation opinion is similarly devoid of any analysis or foundation to support that Plaintiff’s pistol discharged *because* it lacked an external safety. Unquestionably, Tertin’s opinions lack any indicia of reliability, are based purely on speculation and his own *ipse dixit* and must be precluded pursuant to Fed. R. Evid. 702.

WHEREFORE, defendant Sig Sauer, Inc. requests that this Court grant its motion and preclude James Tertin from testifying at trial.

STATEMENT PURSUANT TO LOCAL RULE 7.1(a)(2)

Pursuant to Local Rule 7.1(a)(2), Brian Keith Gibson (admitted *pro hac vice*), national counsel for Sig Sauer, conferred via email with Robert W. Zimmerman, Esquire, counsel for Plaintiff, on February 14, 2025 concerning this motion and attempted in good faith to narrow the issue presented. Despite such a conference, the parties remain at an impasse as to the relief sought by this motion.

REQUEST FOR ORAL ARGUMENT

Pursuant to Local Rule 7.1(d), Sig Sauer requests that this Court hold oral argument on its motion for summary judgment. Sig Sauer believes that oral argument may assist the Court in determining this motion and wishes to be heard.

Dated: February 14, 2025

Respectfully submitted,

**LITTLETON JOYCE
UGHETTA & KELLY LLP**

By: /s/ Brian Keith Gibson

Brian Keith Gibson (admitted *pro hac vice*)

4 Manhattanville Road, Suite 202

Purchase, New York 10577

Tel: (914) 417-3400

Fax: (914) 417-3401

Keith.gibson@littletonjoyce.com

- and -

James M. Campbell, Esquire

CAMPBELL CONROY & O'NEIL

20 City Square, Suite 300

Boston, MA 02129

Tel: 617-241-3060

Jmcampbell@campbell-trial-lawyers.com

Counsel for Defendant Sig Sauer, Inc.

CERTIFICATE OF SERVICE

I hereby certify that this document, filed through the ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and that a true and correct paper copy of the foregoing will be sent those indicated as non-registered participants via first class mail, postage prepaid on this the 14th day of February 2025.

/s/ *Brian Keith Gibson*

Brian Keith Gibson